

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

APPEAL FROM ORDER NO.921 OF 2005
WITH
CIVIL APPLICATION NO.1077 OF 2005

Preeti Charudatta Dedge & Ors.	...Appellants.
Vs.	
Madukar Namdeo Raut & Ors.	...Respondents.
....	
Mr. V. B. Rajure for the Appellants.	
Mr. Pankaj Rajmachikar for the Respondents.	
.....	

CORAM : DR. D.Y. CHANDRACHUD, J.

November 23, 2005.

P.C.:

The Appellants moved an application for impleadment under Order 1 Rule 10 of the Code of Civil Procedure, 1908 which it is common ground has been dismissed. A petition has been filed before this Court challenging the order of dismissal which is pending. This Appeal from Order arises out of the dismissal of the application for the grant of interim relief that was made by the Appellants, pending disposal of the application under Order 1 Rule 10, in the suit instituted by Respondent Nos.1 to 4. The application was completely misconceived. The suit for partition

filed by the Appellants, it is an admitted ground, is pending and the properties in respect of which an order of injunction was sought, are admittedly not included in the schedule of properties in the suit for partition. This is noted by the Learned Trial Judge in paragraphs 11 and 15 of the impugned order. In these circumstances, the impugned order of the Trial Court declining to grant interim relief in favour of the Appellants does not call for interference. It is, however, needless to add that denial of interim relief in these proceedings shall not preclude the Appellants from taking recourse to the remedies independently available to them in law. The appeal is dismissed.

In view of the disposal of the appeal, the Civil Application does not survive and is accordingly disposed of.

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